



**BOARD OF ADJUSTMENT  
ORDER OF ITEMS  
FEBRUARY 8, 2016**

**CALL TO ORDER: 7:00**

**APPROVAL OF MINUTES: January 11, 2016**

**NEW BUSINESS**

**Variance**

Application by **Steve Owens (1448)** for a Variance to allow a variance of front and rear setbacks in accordance with Article V, Paragraph 1, Section D Page 26 of the DeSoto County Zoning Ordinance. Subject property is located at 2119 Scenic Lane, on the south side of Hwy 304 Parcel #3-09-6-14-00-0-00007-00 in Section 14, Township 3, Range 9 and is zoned A. (District 4)

Application by **Regency Homebuilders, LLC (1449)** for a Variance to allow a rear setback of less than 20 feet in accordance with Laurelbrook Planned Unit Development. Subject property is located at 7117 Cowee Lane, on the west side of Cowee Lane and north of Mingus Drive Parcel #1-05-9-29-03-0-00121-00 in Section 29, Township 1, Range 5 and is zoned PUD. (District 1)

Application by **John Dailey (1450)** for a Variance to allow a fence taller than 3 feet within the front setback in accordance with Article X, Paragraph 2 Page 101 the DeSoto County Zoning Ordinance. Subject property is located at 14693 Kenner Place Dr, on the north side of Kenner Place Dr. and west of Jefferson Heights Drive, Parcel #1-05-8-28-00-0-00037-03 in Section 28, Township 1, Range 5 and is zoned R-20. (District 1)

The DeSoto County Board of Adjustment met at 7:00 p.m. on Monday, February 8, 2016, in the Board Room of the County Administration Building in Hernando, Mississippi. The following Board members were present: Tom Williams, Mike Duncan, Phillip Steward, Earl Ward and Rudy Davis. Staff members present included Bennie Hopkins, Austin Cardosi, Ashley Hendricks and Robert Quimby, Board Attorney.

Board of Adjustment Chairman Mr. Williams called the meeting to order and asked whether any member of the Board recommended changes to the Minutes dated January 11, 2016. Mr. Davis made a Motion to approve the minutes as presented. Mr. Steward seconded the Motion. The Motion was passed with a unanimous vote.

Ms. Ashley Hendricks explained the meeting process, the provisions for Board approval of a Conditional Use and a Variance under the DeSoto County Zoning Ordinance, and the appeal process. She stated the deadline to file an appeal on items heard at this meeting is February 18, 2016, at 5:00 p.m. She then stated any appeals filed for Board actions taken at this meeting will be heard by the Board of Supervisors on March 21, 2015, at 11:00 a.m.

## **NEW BUSINESS**

### **Variance**

**Application by Steve Owens (1448) for a Variance to allow a variance of front and rear setbacks in accordance with Article V, Paragraph 1, Section D Page 26 of the DeSoto County Zoning Ordinance. Subject property is located at 2119 Scenic Lane, on the south side of Hwy 304 Parcel #3-09-6-14-00-0-00007-00 in Section 14, Township 3, Range 9 and is zoned A. (District 4)**

Mr. Hopkins presented the application by Steve Owens for a Variance to allow a variance of front and rear setbacks. He stated Mr. Steve Owens was present to present the application.

Mr. Owens stated that a picture of what the proposed home will look like is enclosed on the packet presented to the Board. He stated the brick and the siding will match the existing mobile home. He then explained where the proposed house would be located on the property.

Mr. Steward asked if the applicant's mother is in a wheelchair. Mr. Owens stated that she is not yet in a wheelchair but was recently approved for a motorized chair because of her hip and knee issues.

Mr. Williams asked what is different about this request from the previous request. Mr. Owens stated the previous request was to place the mobile home 10 feet from the side of the existing mobile home, and this request is to place the mobile home further back on the property.

Mr. Cardosi explained the request and presented a drawing of where the house would have to be located to be in compliance with County regulations.

Mr. Owens stated he would not subdivide the property later to have the house and the mobile home on separate properties. Mr. Steward asked why. Mr. Owens stated to subdivide it would require revising the major subdivision and all affected parties would be required to sign the plat.

There was discussion of whether what is currently being proposed is what was suggested at the original meeting. It is not what was suggested. The Board previously suggested placing the proposed house directly behind the mobile home.

Mr. Owens stated he was trying to keep his mother as close to the mobile home as possible for her security and safety.

Mr. Williams asked how big the proposed house would be. Mr. Owens stated it would be 638 sq. ft., with one bedroom and one bathroom.

Mr. Williams asked if there is anyone to speak for or against this application.

Mycheline Murphy – 2132 Scenic Lane – came forward and was concerned with the following:

- Original application and appeal were denied
- This is a mobile home community and a stick built home will not be in character with neighborhood and will decrease the property value in the area
- A brick home is not in conformance with a mobile home community
- There will be two homes on one parcel
- Buildings will be crowded on the parcel
- Will over tax the utilities
- Will affect the environment of the natural beauty
- Will not improve the community
- A disabled or elderly parent should not be a reason to grant a Variance
- The applicant is not willing to compromise
- Will infringe on neighbors views

Mr. Owens stated this is his second time requesting to build a stick built home on his property. He was told at the previous meeting that if he moved it to the rear there would be no opposition from Ms. Murphy, but she is now complaining about the proposed location in the rear. He stated he feels Ms. Murphy has a personal vendetta against him. Mr. Steward stated that the suggested location was behind the mobile home in the fenced in area. Mr. Owens stated he would still need a Variance to place the mobile home at that location.

Mr. Owens stated the four people opposing this application in writing were given false information. He stated they were told he was building a shed with living quarters; they do

not oppose him building a brick home. Mr. Owens stated he feels a brick home will increase the value of homes in the area.

Mr. Steward asked if the proposed building will conform to the other buildings in the neighborhood. Mr. Owens stated he was not sure what was being asked. Mr. Williams stated there are mobile homes on all the other lots in the subdivision. He then stated that no matter where the home is placed on the property it will be seen because the parcel is wide open.

Mr. Owens pointed out on the GIS image a two story, three car garage on Ms. Murphy's property that could have living quarters added.

Mr. Williams asked if any of this property is in the floodplain. Mr. Owens stated there is floodplain in the rear portion of the property.

Mr. Owen stated that at the Board of Supervisors' meeting, Ms. Murphy presented the same signatures of the four neighbors opposing the application. However, he confirmed that the neighbor to the north of his property he was fine with the request. He then stated Ms. Murphy said the neighbor was intimidated by him. That neighbor, Mr. Layton, sent a letter stating that he is not intimidated.

Mr. Owens stated if this request is denied he would like to ask for a side variance of 50 ft. and to attach the house as a mother-in-law wing to the existing mobile home.

Mr. Steward asked where the home could be located on the property and not require the applicant requesting a Variance. Mr. Owens stated behind the home within the fenced area. He stated that if he placed within the fenced area he would have to destroy things located in his back yard.

There was discussion of possible locations on the property for the home.

Mr. Williams stated he doesn't have a problem with the current proposed location because anywhere it is located on the property it will be seen because the property is so open.

Mr. Ward asked what would be the issue with moving the swing set located in the rear yard. Mr. Owens stated it is permanently set in the ground; the legs of the swing set are about 4 feet in the ground.

Mr. Steward made a Motion to deny the application by Steve Owens for a Variance to allow a variance of front and rear setbacks, as it would confer on the applicant a special privilege that is denied by the ordinance to other lands, structures, or buildings in the same zoning district. Mr. Duncan seconded the Motion. The Motion was passed with a 4-1 vote. Mr. Williams voted no.

**Application by Regency Homebuilders, LLC (1449) for a Variance to allow a rear setback of less than 20 feet in accordance with Laurelbrook Planned Unit Development. Subject property is located at 7117 Cowee Lane, on the west side of Cowee Lane and north of Mingus Drive Parcel #1-05-9-29-03-0-00121-00 in Section 29, Township 1, Range 5 and is zoned PUD. (District 1)**

Mr. Hopkins presented the application by Regency Homebuilders for a Variance to allow a rear setback of less than 20 feet. Mr. John Donati was present to represent the application.

Mr. Williams asked if the home is already built. Mr. Donati stated it is built. Mr. Duncan asked if it is the rear porch that is encroaching. Mr. Donati confirmed that it is the rear porch. Mr. Williams asked how much is it encroaching. Mr. Donati stated it is encroaching 1ft, 2 inches. Mr. Steward asked why it is encroaching. Mr. Donati stated the concrete man poured the slab incorrectly.

Mr. Duncan made a Motion to approve the Variance application by Regency Homebuilders, LLC to allow to allow a rear setback of less than 20 feet based on staff recommendations and findings that special conditions and circumstances exist which are peculiar to the land, structure, or building involved; literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district; special conditions and circumstances do not result from the actions of the applicant; and granting the Variance will not confer on the applicant any special privilege that is denied by the ordinance to other lands, structures, or buildings in the same zoning district. Mr. Ward seconded the motion. The Motion was passed with a unanimous vote.

**Application by John Dailey (1450) for a Variance to allow a fence taller than 3 feet within the front setback in accordance with Article X, Paragraph 2 Page 101 the DeSoto County Zoning Ordinance. Subject property is located at 14693 Kenner Place Dr, on the north side of Kenner Place Dr. and west of Jefferson Heights Drive, Parcel #1-05-8-28-00-0-00037-03 in Section 28, Township 1, Range 5 and is zoned R-20. (District 1)**

Mr. Hopkins presented the application by John Dailey for a Variance to allow a fence taller than 3 feet within the front setback. Mr. Dailey was present to represent the application.

Mr. Dailey stated he is requesting to build the fence 10 feet from his home to be able to put a drive through gate into the backyard from the driveway.

Mr. Williams asked what type of fence is being requested. Mr. Dailey stated it will be a wooden privacy fence.

Mr. Davis made a Motion to approve the Variance application by John Dailey to allow a fence taller than 3 feet within the front setback based on staff recommendations and findings that special conditions and circumstances exist which are peculiar to the land,

structure, or building involved; literal interpretation of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district; special conditions and circumstances do not result from the actions of the applicant; and granting the Variance will not confer on the applicant any special privilege that is denied by the ordinance to other lands, structures, or buildings in the same zoning district. Mr. Steward seconded the motion. The Motion was passed with a unanimous vote.

#### Election of Officers

Mr. Davis nominated Mr. Phillip Steward for Chairman, Mr. Williams seconded the Motion. The Motion was passed with a unanimous vote.

Mr. Davis nominated Mr. Mike Duncan for Vice Chairman, Mr. Williams seconded the Motion. The Motion was passed with a unanimous vote.

Mr. Duncan nominated Mr. Earl Ward for Secretary, Mr. Steward seconded the Motion. The Motion was passed with a unanimous vote.